

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

TRAVIS WAYNE TOLLEY,)	
)	
Plaintiff,)	
)	
v.)	Case No.: 7:19-cv-863
)	
BEN CALDWELL, et al.,)	
)	
Defendants.)	

DEFENDANT GARDNER'S MOTION TO DISMISS

Defendant Greg Gardner ("Officer Gardner"), by counsel, moves pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure to dismiss Plaintiff Travis Wayne Tolley's Second and Third Causes of Action in his Third Amended Complaint. For the reasons stated in the accompanying Memorandum in Support, the Second and Third Causes of Action fail to state a claim against Officer Gardner upon which relief can be granted.

WHEREFORE, Defendant Greg Gardner respectfully requests that the Court dismiss the Second and Third Causes of Action of the Third Amended Complaint as more specifically set out in the accompanying memorandum, and award him such other relief as the Court deems just and proper.

GREG GARDNER

By /s/ Julian F. Harf
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Attorney for Defendant Greg Gardner

CERTIFICATE OF SERVICE

I hereby certify that on the 20th day of November, 2020, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send a notification of such filing (NEF) to all counsel of record.

/s/ Julian F. Harf

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